

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05 CR 92

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK COX,

Defendant.

ORDER

THIS MATTER IS BEFORE THE COURT upon its own motion. Through a letter from counsel for Wachovia SBA Lending, Inc. ("Wachovia"), the Government has recently made the Court aware of a conflict in hearing the claim of third party petitioner Carol Cox to the funds in a particular bank account which was seized in connection with Mark Cox's criminal proceedings. Having come to the Court's attention that Wachovia claims to be entitled to be paid restitution from the same funds which Ms. Cox seeks to gain from the upcoming hearing, this Court must recuse itself from the hearing of this matter. However, the Court need only recuse itself from the forfeiture portion of these proceedings, and will retain the criminal portion of this case for final resolution. Thus, the clerk is directed to reassign the forfeiture issue of this matter to the appropriate District Court Judge for resolution of Ms. Cox's third party petition. In accordance with this Order, the hearing set for October 17, 2005, at 10:30 a.m., is hereby cancelled.

Signed: October 14, 2005

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
Chief United States District Judge

